

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2199 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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AKHIL GUJARAT GENERAL MAZDOOR SANGH

Versus

STATE OF GUJARAT THROUGH SECRETARY

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Appearance:

MR GM JOSHI for Petitioner

MRS B.R. GAJJAR, A.G.P. instructed by MR. DA BAMBHANIA for  
Respondent No. 1, 2 and 3.

Name of respondent No. 4 deleted vide court's order  
dtd. 8.8.1996

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CORAM : R.K.ABICHANDANI, J

Date of decision: 08/08/96

ORAL JUDGEMENT

Rule. The learned A.G.P. Ms. Gajjar instructed  
by Mr. D.A. Bambhani, Solicitor to the Government for  
respondent Nos. 1 to 3, waives service of Rule. At the

instance of both the sides, the matter is taken up for final hearing. The learned counsel for the petitioner submits that the petitioner does not press for prayer (A) in paragraph 11 which was for a direction for making adverse entry in the Confidential Reports of the Officer i.e. the Assistant Labour Commissioner who had made the impugned order. The challenge of the petitioner is against the order dated 11.8.1994 made by the respondent No. 3 refusing to make a reference under Section 10 of the Industrial Disputes Act by holding that the resignation of the petitioner employee had brought about an end to the relationship of the employer and the employee and therefore there was no question of making reference under Section 10 of the Act. The respondent No. 3 by holding that in view of the resignation of the petitioner, the petitioner did not remain an employee, virtually decided the dispute on merits which was not his function to do as held by this Court in Special Civil Application No. 5933 of 1993 decided on July 14, 1993. He was required only to form an opinion as to whether industrial dispute existed or was apprehended. While rejecting the application of the petitioner, the respondent No. 3 entered into the merits of the dispute and has in fact adjudicated the dispute. The impugned order cannot therefore, be sustained and is hereby set aside with a direction that the concerned Assistant Labour Commissioner will consider the complaint afresh and decide the question as to whether reference should be made or not expeditiously preferably within two months from the date of service of this order. Rule is made absolute accordingly with no order as to costs.

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